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Attorneys for Plaintiff/Intervenor
JANET STEGE

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff

v.

GEORGIA-PACIFIC LLC,

Defendant.

CIVIL ACTION NO. C-07-3944 (SBA)

**DECLARATION OF KATHRYN
BURKETT DICKSON IN SUPPORT OF
MOTION OF JANET STEGE FOR
LEAVE TO INTERVENE**

Date: March 4, 2008
Time: 1:00 p.m.
Courtroom: 3, 3rd Fl. (Oakland)
Judge: Hon. Sandra B. Armstrong

I, Kathryn Burkett Dickson, declare as follows:

1. I am an attorney licensed to practice in the State of California and before this Court. I submit this Declaration in Support of the Motion of Janet Stege for Leave to Intervene in the above case. I have personal knowledge of the facts set forth in this declaration and am competent to testify to them.

2. I have been retained by Janet Stege to represent her individual interests in this matter and have been authorized by her to file this motion for leave to intervene on her behalf.

3. I first met with Ms. Stege on December 28, 2007, reviewed the underlying materials in the case and met with her again earlier this week. This motion is being filed as expeditiously as possible after our agreement that Ms. Stege would retain my services, which occurred on January 7, 2008.

1 4. On the morning of January 8, 2008, I contacted defense counsel, Margaret Hart
2 Edwards to inform her that I would be representing Ms. Stege, to inform her that I would be
3 filing a motion to intervene on Ms. Stege's behalf, and to discuss the schedule for Ms. Stege's
4 deposition.

5 5. During my conversation with defense counsel on January 8, 2008, I asked that
6 Defendants stipulate to Ms. Stege's intervention, but defense counsel refused. Defense counsel
7 chose to continue Ms. Stege's deposition until after the Court's ruling on intervention, although
8 I informed Ms. Hart Edwards that we were prepared to go forward with the deposition if she
9 desired.

10 6. Attached to this Declaration as Exhibit A is a true and correct copy of the
11 Complaint in Intervention that Ms. Stege requests permission to file.

12 7. The Complaint in Intervention names as Defendants Georgia-Pacific Corrugated, LLC
13 and Georgia-Pacific Holdings, LLC, rather than Georgia-Pacific LLC, as originally named in the
14 Complaint originally filed by the EEOC. Counsel for the Commission, David Offen-Brown and Linda
15 Ordonio-Dixon have been informed me, as well as counsel for Defendant, (and indicated in the first
16 CMC statement) that the EEOC will shortly be seeking to amend the Complaint to substitute these
17 Defendants as the proper employers and proper Defendants in the case. In addition, I have observed
18 that Defendant identified these entities in the Statement of Interested Parties it filed with the Court (*see*
19 Court's Electronic Docket for this case, Document No. 11).

20 8. From reviewing the files and records in this case, and based on my discussions with
21 Counsel for the EEOC, I am aware that no depositions have yet been taken in this matter; that the
22 original parties have exchanged Initial Disclosures; no mediations have occurred; no motions have been
23 filed. and that the EEOC has fully responded to one set of interrogatories and one set of requests for
24 production of documents; and that other discovery has not yet taken place.

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Exhibit A

KATHRYN BURKETT DICKSON, State Bar No. 70636
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Attorneys for Plaintiff/Intervenor
JANET STEGE

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff

JANET STEGE,

Plaintiff/Intervenor

v.

GEORGIA-PACIFIC CORRUGATED,
LLC; and GEORGIA-PACIFIC
HOLDINGS, LLC;

Defendants.

CIVIL ACTION NO. C-07-3944 (SBA)

**COMPLAINT IN INTERVENTION
FOR DISABILITY DISCRIMINATION
AND FAILURE TO ACCOMMODATE**

DEMAND FOR JURY TRIAL

Date: March 4, 2008
Time: 1:00 p.m.
Courtroom: 3, 3rd Fl. (Oakland)
Judge: Hon. Sandra B. Armstrong

Plaintiff/Intervenor Janet Stege complains and alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this action pursuant to 28 U.S.C. section 1331 because this action arises under the law of the United States, including 42 U.S.C. §§ 12112, 2117 and 42 U.S.C. §2000e-5(f)(1). Plaintiff/Intervenor Janet Stege ("Ms. Stege") has the right to intervene in this action pursuant to 42 U.S.C. §2000e-5(f)(1).

2. The claims involved in this action arose in the Northern District of California, in that the events described herein occurred in this judicial district. Plaintiff/Intervenor is

1 informed and believes that Defendants Georgia-Pacific Corrugated, LLC and Georgia-Pacific
2 Holdings LLC own and operate facilities within this District in which Ms. Stege has been
3 employed.

4 3. This Court has pendent and supplemental jurisdiction over Plaintiff/Intervenor's
5 claims brought pursuant to the California Fair Employment and Housing Act ("FEHA")
6 pursuant to 28 U.S.C. § 1367. Compensatory and punitive damages, attorneys' fees and costs,
7 as well as injunctive and equitable relief are sought pursuant to both the federal ADA and the
8 California FEHA provisions providing for such remedies.

9 INTRADISTRICT ASSIGNMENT

10 4. This action is appropriate for assignment to San Francisco/Oakland because the
11 unlawful employment practices alleged were and are being committed in San Mateo and/or
12 Alameda Counties, and the relevant facilities owned and operated by Defendants are located in
13 those two Counties, which are within this the San Francisco/Oakland District.

14 PARTIES

15 5. Plaintiff/Intervenor Janet Stege is a natural person who resides within this
16 judicial district.

17 6. Plaintiff/Intervenor Janet Stege is informed and believes and thereon alleges that
18 Defendants Georgia-Pacific Corrugated LLC and Georgia-Pacific Holdings, LLC are
19 corporations authorized to do business and were or are doing business in the State of California,
20 Counties of San Mateo and/or Alameda, and have continuously employed at least 15 persons.
21 Plaintiff/Intervenor is further informed and believes and thereon alleges that Defendants
22 Georgia-Pacific Corrugated LLC and Georgia-Pacific Holdings LLC operate as an integrated
23 enterprise and/or constitute a "single employer" of Plaintiff/Intervenor.

24 7. Plaintiff Equal Employment Opportunity Commission ("EEOC" or
25 "Commission") is the agency of the United States of America charged with the administration,
26 interpretation, and enforcement of the Americans with Disabilities Act ("ADA") and Title VII
27 of the Civil Rights Act.

1 8. At all relevant times, Defendants have been employers covered by the ADA, 42
2 U.S.C. 12111(2) & (5) and FEHA, Cal. Gov't Code §12926(d) and 12940.

3 **FACTUAL ALLEGATIONS**

4 9. Plaintiff/Intervenor Stege has worked for Georgia-Pacific for nearly twenty
5 years. She is currently employed in Georgia Pacific's San Leandro, California plant.

6 10. Starting in approximately 1998, while working at the company's South San
7 Francisco plant, Ms. Stege required a work schedule accommodation because of her diagnosed
8 medical condition of fibromyalgia, a permanent medical condition that causes deep muscle
9 pain, severe headaches, and fatigue. Fibromyalgia is a disability covered by both federal and
10 state law in that it substantially limits one or more major life activities.

11 11. The accommodations which involved no assignment to the night shift, no more
12 than 40 hours of work per week, and two consecutive days off per week, were necessary and
13 were based on Ms. Stege's doctor's recommendation, because they allowed Ms. Stege to rest
14 her muscles and recover before returning to work. Without sufficient rest, Ms. Stege's muscle
15 pain and fatigue become exacerbated. These accommodations were provided until early 2004.

16 12. In April 2004, Ms. Stege was transferred to the company's San Leandro facility.
17 She was informed at about that time that the company would no longer make any
18 accommodation to her work schedule. Ms. Stege protested the company's refusal to provide
19 her continuing accommodations.

20 13. Ms. Stege has attempted to work under the conditions imposed by her employer
21 and the extra work has exacerbated her condition, creating additional physical and emotional
22 suffering, and necessitating additional time off work.

23 14. Ms. Stege is able to perform the essential functions of her job with reasonable
24 accommodation. Since April, 2004, Defendants have been and are continuing to provide her
25 with reasonable accommodation.

26 15. Ms. Stege has suffered physically, emotionally, and financially as a result of
27 Defendant's discrimination against and failure to accommodate her.

16. Defendants' actions in discriminating against Ms. Stege and in failing to accommodate her were done intentionally, with malice, and in reckless and/or conscious disregard of Ms. Stege's federally and state protected rights.

17. Within the time allowed by law, Ms. Stege filed a charge of discrimination with the EEOC. The charges were also filed with the DFEH pursuant to a work-sharing agreement between the state and federal agencies. Ms. Stege received a right to sue from the DFEH which was tolled pending the EEOC's investigation, efforts at conciliation, and during the pendency of this action which was timely filed by the EEOC. Thus, all conditions precedent to the filing of this action have been fulfilled.

FIRST CLAIM FOR RELIEF

(Violation of the Americans with Disabilities Act)

18. The preceding allegations are re-alleged and incorporated here by reference.

19. Defendants engaged in unlawful employment practices in violation of provisions of the ADA, 42 U.S.C. §§ 12112(a) & (b)(5)(A) by discriminating against Ms. Stege and failing to provide her with reasonable accommodation for her disability, fibromyalgia.

20. In engaging in the conduct described above, Defendants have deprived Ms. Stage of equal employment opportunities and have otherwise adversely affected her status as an employee because of her disability.

21. Defendants engaged in the conduct described above intentionally, with malice, and in reckless and/or conscious disregard of Ms. Stege's federally protected rights.

22. Wherefore, Ms. Stege seeks the relief listed below.

SECOND CLAIM FOR RELIEF

(Violation of the California Fair Employment and Housing Act)

23. The preceding allegations are re-alleged and incorporated here by reference.

24. Defendants engaged in unlawful employment practices in violation of provisions of the California Fair Employment and Housing Act, Cal. Gov't Code §§ 12926 & 12940, by discriminating against Ms. Stege, failing to provide her with reasonable accommodation for her

1 disability, fibromyalgia, and failing to take all steps reasonably necessary to prevent disability
2 discrimination from occurring.

3 25. In engaging in the conduct described above, Defendants have deprived Ms.
4 Stege of equal employment opportunities and have otherwise adversely affected her status as an
5 employee because of her disability.

6 26. Defendants engaged in the conduct described above intentionally, with malice,
7 and in conscious disregard of Ms. Stege's protected rights under state law.

8 27. Wherefore, Ms. Stege seeks the relief listed below.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff/Intervenor Janet Stege prays for judgment in her favor and
11 against Defendants as follows:

12 1. For compensatory damages, including loss of wages and benefits, according to
13 proof;

14 2. For mental and emotional distress, according to proof;

15 3. For punitive and exemplary damages in an amount sufficient to punish and deter
16 Defendants, according to proof;

17 4. For an award of interest, including prejudgment interest at the legal rate;

18 5. For injunctive and equitable relief enjoining Defendants from violating
19 Plaintiff/Intervenor's rights to work free of disability discrimination and requiring Defendants
20 to provide reasonable accommodation as required by law;

21 6. For injunctive and equitable relief requiring Defendants to establish and
22 implement policies, training, and procedures to ensure that Defendants' managers, supervisors
23 and other relevant employees fulfill their legal obligations to ensure that discrimination against
24 e employees with disabilities does not occur and to ensure that such employees are provided the
25 reasonable accommodations with the law mandates.

26 7. For an award of attorneys' fees and costs as provided by 42 U.S.C. section
27 2000e-5(k) and California Government Code section 12965.

1 8. For such other and further relief as the Court deems just and proper.

2
3 Dated: January 10, 2008

DICKSON - ROSS LLP

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5 By: /S/ Kathryn Burkett Dickson
6 Kathryn Burkett Dickson
7 Attorneys for Plaintiff/Intervenor
8 JANET STEGE

9 **DEMAND FOR JURY TRIAL**

10 Plaintiff/Intervenor Janet Stege hereby demands a jury trial on her federal and state
11 claims
12 as authorized by law.

13 Dated: January 10, 2008

DICKSON - ROSS LLP

14
15 By: /S/ Kathryn Burkett Dickson
16 Kathryn Burkett Dickson
17 Attorneys for Plaintiff/Intervenor
18 JANET STEGE
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